IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,   )
)
              Plaintiff,   )   Cr.   No. 04-60123-HO
)
)
         v.   )   ORDER
)
JOHN HENRY ROSS PRYOR,   )
)
              Defendant.   )
)

Defendant moves for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(I). Defendant asserts that he has life threatening hepatitis c that may soon progress to cirrhosis. Defendants also asserts he is not receiving treatment for hepatitis c and that he has other serious medical conditions as well. Accordingly, defendant contends that there are extraordinary and compelling circumstances that entitle him to relief.

Section 3582(c)(1) provides, in part,

The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

> (A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—
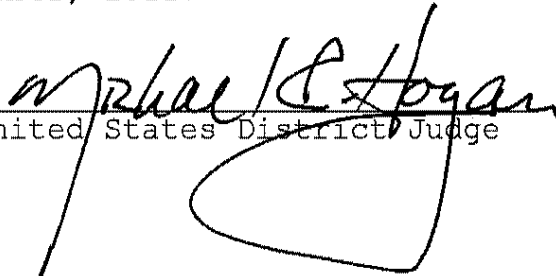
> > (i) extraordinary and compelling reasons warrant such a reduction

In this case, the Director has not so moved. There is no right to a motion from the Director to reduce a sentence under section 3582. Cf. Simmons v. Christensen, 894 F.2d 1041, 1042-43 (9th Cir. 1990) (statute permitting BOP to move to reduce sentence to time served does not create a right to liberty). Under Section 3582, "[a] district court may not modify a defendant's federal sentence based on the defendant's ill health, except upon a motion from the Director of the Bureau of Prisons." Engle v. U.S., 26 Fed.Appx. 394, 397 (6th Cir. 2001). Accordingly, defendant's motion is denied.

CONCLUSION

For the reasons stated above, defendant's motion for sentence reduction (#35) is denied.

DATED this _14th_ day of November, 2011.

Michael E. Hogan
United States District Judge